

AMENDED IN ASSEMBLY APRIL 2, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2917

Introduced by Assembly Member Torrico

February 22, 2008

~~An act to amend Section 1798.201 of the Health and Safety Code, relating to emergency medical services. An act to amend Sections 1797.101, 1797.170, and 1798.200 of, and to add Sections 1797.61, 1797.117, 1797.118, and 1797.184 to, the Health and Safety Code, relating to emergency medical services.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2917, as amended, Torrico. Emergency medical services personnel.

Under existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, the Emergency Medical Services Authority is responsible for establishing minimum standards and promulgating regulations for the training and scope of practice for emergency medical technicians-paramedic (EMT-P). Violation of the act is a misdemeanor. Under existing law, these standards and regulations would be applicable to local governments, agencies, and other organizations that provide this training.

The act also provides for the certification of emergency medical technicians through the issuance of certificates, including EMT-I and EMT-II certificates, by local entities, known as local EMS agencies, which are designated by counties. Existing law also permits public safety agencies, for public safety personnel, and the State Board of Fire Services, for fire safety personnel, to issue EMT-I certificates. Existing law provides that the medical director of a local EMS agency or the

Emergency Medical Services Authority may deny, suspend, or revoke certificates issued under these provisions, or may place a certificate holder on probation, upon the occurrence of any of specified events.

This bill would require the authority to establish and maintain a centralized system for monitoring and tracing EMT-I and EMT-II certification status and EMT-P licensure status to be used by local certifying authorities. The bill would require the authority to adopt regulations that establish standardized procedures for conducting a background check. The bill would require every certifying authority to verify completion of a background check.

This bill would require the authority to establish EMT-I and EMT-II certification and disciplinary guidelines. This bill would authorize an EMT-I or EMT-II employer to investigate and discipline those EMT-I and EMT-II employees who commit specified acts. The bill would also revise the grounds for which the local EMS agency may impose additional discipline against an EMT-I or EMT-II certificate holder.

This bill would also revise the grounds for which the authority may discipline EMT-P licensees to include, but not be limited to, denial of licensure by any other governmental entity, impersonating an applicant or acting as proxy for an applicant, and making a false statement in connection with an application.

By changing the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes the medical director of a local emergency medical services agency to evaluate information that an EMT-P licenseholder has committed any act or omission that appears to constitute grounds for disciplinary action in order to determine if there is a reason to believe that disciplinary action may be necessary.~~

~~This bill would, instead, require the medical director to evaluate the information. By increasing the duties of local officials, this bill would create a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) The health and safety of Californians often depends on the*
4 *timely response and competent care of emergency medical service*
5 *(EMS) personnel.*

6 *(b) Whether it is an automobile accident, heart attack, near*
7 *drowning, unscheduled childbirth, gunshot wound, or other life*
8 *critical incident, emergency medical technicians (EMTs) provide*
9 *vital, lifesaving, prehospital attention to the public and assist in*
10 *transporting the sick or injured to an appropriate medical facility.*

11 *(c) Maintaining consistent and accountable supervision of EMT*
12 *certificate holders requires that pertinent information about*
13 *certification be available to all EMS providers prior to the*
14 *employment of an EMT.*

15 *(d) Ensuring the safety of the public, as well as that of first*
16 *responders, requires that any entity that employs EMTs have access*
17 *to pertinent information concerning any applicant's background*
18 *and criminal history as a condition of his or her employment.*

19 *(e) Local EMS agencies have a role to play in maintaining the*
20 *consistency of department policies and in conforming to the legal*
21 *requirements necessary to provide appropriate medical oversight*
22 *and protect the public safety.*

23 *SEC. 2. Section 1797.61 is added to the Health and Safety*
24 *Code, to read:*

25 *1797.61. "Certificate status" or "license status" means the*
26 *active, expired, suspended, revoked, or placed on probation*
27 *designation applied to a certificate or license issued pursuant to*
28 *this division.*

29 *SEC. 3. Section 1797.101 of the Health and Safety Code is*
30 *amended to read:*

1797.101. The Emergency Medical Services Authority shall be headed by the Director of the Emergency Medical Services Authority who shall be appointed by the Governor upon nomination by the Secretary of ~~the California Health and Welfare Agency~~ *Human Services*. The director shall be a physician and surgeon licensed in California pursuant to the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and who has substantial experience in the practice of emergency medicine.

SEC. 4. *Section 1797.117 is added to the Health and Safety Code, to read:*

1797.117. (a) *The authority shall establish and maintain a centralized registry system for the monitoring and tracking of each EMT-I and EMT-II certificate status and each EMT-P license status. This centralized registry system shall be used by the local certifying authorities as part of the certification process and shall be available for public information on EMT-I and EMT-II certificate and EMT-P license status.*

(b) *The centralized registry system shall contain, but not be limited to, the full name of every individual who has been issued an EMT-I or EMT-II certificate or EMT-P license, the name of the entity that issued the certificate or license, the certificate or license number, the date of issuance of the license or certificate, the license or certificate status, and the date when a background check was completed.*

(c) *The authority shall, in order to reduce duplication and unnecessary administrative costs, adopt regulations that establish standardized procedures for conducting a background check that require an Federal Bureau of Investigation and Department of Justice criminal history and the use of the subsequent arrest service described in Section 1165.2 of the Penal Code.*

SEC. 5. *Section 1797.118 is added to the Health and Safety Code, to read:*

1797.118. (a) *Every certifying authority shall verify that a background check pursuant to regulations adopted pursuant to Section 1797.117 has been completed on each individual who is issued an EMT-I or EMT-II certificate.*

(b) *Every certifying authority shall submit to the authority certification data required pursuant to Section 1797.117.*

1 (c) Each local EMS agency shall submit certificate status
2 updates to the authority within three working days after a final
3 determination is made regarding a certification disciplinary action
4 taken by the medical director that results in a change in an EMT-I
5 or EMT-II certificate status.

6 SEC. 6. Section 1797.170 of the Health and Safety Code is
7 amended to read:

8 1797.170. (a) The authority shall ~~establish minimum standards~~
9 ~~develop and promulgate~~, after approval by the commission
10 pursuant to Section 1799.50, adopt regulations for the training and
11 scope of practice for EMT-I certification.

12 (b) Any individual certified as an EMT-I pursuant to this act
13 shall be recognized as an EMT-I on a statewide basis, and
14 recertification shall be based on statewide standards. Effective
15 July 1, 1990, any individual certified as an EMT-I pursuant to this
16 act shall complete a course of training on the nature of sudden
17 infant death syndrome which is developed by the California SIDS
18 program in the State Department of *Public Health Services* in
19 consultation with experts in the field of sudden infant death
20 syndrome.

21 SEC. 7. Section 1797.184 is added to the Health and Safety
22 Code, to read:

23 1797.184. The authority shall develop and, after the approval
24 of the commission pursuant to Section 1799.50, adopt all of the
25 following:

26 (a) Guidelines for disciplinary orders, temporary suspensions,
27 and conditions of probation for EMT-I and EMT-II certificate
28 holders that protects the public health and safety.

29 (b) Regulations for the issuance of EMT-I and EMT-II
30 certificates by a certifying authority that protects the public health
31 and safety.

32 (c) Regulations for the recertification of EMT-I and EMT-II
33 certificate holders that protect the public health and safety.

34 (d) Regulations for disciplinary processes for EMT-I or EMT-II
35 certificate holders that protect the public health and safety.

36 SEC. 8. Section 1798.200 of the Health and Safety Code is
37 amended to read:

38 1798.200. (a) ~~The~~ (1) (A) Except as provided in paragraph
39 (2), an employer of an EMT-I or EMT-II may conduct
40 investigations, as necessary, and take disciplinary action against

1 *an EMT-I or EMT-II who is employed by that employer for conduct*
2 *in violation of subdivision (c).*

3 *(B) Each EMT-I or EMT-II employer shall provide a written*
4 *report, along with supporting documentation, to the medical*
5 *director of the local EMS agency that has jurisdiction over the*
6 *employer within 30 days after the EMT-I or EMT-II is terminated*
7 *or suspended for a disciplinary cause, the EMT-I or EMT-II resigns*
8 *following notification of an impending investigation based upon*
9 *evidence that would indicate the existence of a disciplinary cause,*
10 *or the EMT-I or EMT-II is removed from EMT-related duties for*
11 *a disciplinary cause after the completion of the employer's*
12 *investigation.*

13 *(C) At the conclusion of an investigation, the employer of an*
14 *EMT-I or EMT-II may develop and implement, in accordance with*
15 *the guidelines for disciplinary orders, temporary suspensions, and*
16 *conditions of probation adopted pursuant to Section 1797.184, a*
17 *disciplinary plan for the EMT-I or EMT-II. Upon adoption of the*
18 *disciplinary plan, the employer shall submit that plan to the local*
19 *EMS agency within three working days. The employer's*
20 *disciplinary plan may include a recommendation that the medical*
21 *director of the local EMS agency consider taking action against*
22 *the holder's certificate pursuant to paragraph (3).*

23 *(2) The medical director of a local EMS agency may conduct*
24 *investigations as necessary, and take disciplinary action against*
25 *an EMT-I or EMT-II who is not working as an EMT-I or EMT-II*
26 *or whose employer chooses not to conduct an investigation*
27 *pursuant to paragraph (1) for conduct in violation of subdivision*
28 *(c). At the conclusion of these investigations, the medical director*
29 *may develop and implement, in accordance with the recommended*
30 *guidelines for disciplinary orders, temporary orders, and*
31 *conditions of probation adopted pursuant to Section 1797.184, a*
32 *disciplinary plan for the EMT-I or EMT-II. The medical director's*
33 *disciplinary plan may include action against the holder's certificate*
34 *pursuant to paragraph (3).*

35 *(3) The medical director of the local EMS agency may, in*
36 *accordance with Chapter 6 (commencing with Section 100206) of*
37 *Division 9 of Title 22 of the California Code of Regulations,*
38 *regulations for disciplinary processes adopted pursuant to Section*
39 *1797.184, deny, suspend, or revoke any EMT-I or EMT-II*
40 *certificate issued under this division, or may place any EMT-I or*

1 EMT-II certificate holder on probation, upon the finding by that
2 medical director of the occurrence of any of the actions listed in
3 subdivision (c). ~~The authority shall ensure that the local EMS~~
4 ~~agency's disciplinary policies and procedures are, at a minimum,~~
5 ~~as effective in protecting the due process rights of any EMT-I or~~
6 ~~EMT-II certificate holder as those in Chapter 5 (commencing with~~
7 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
8 ~~Code. and the occurrence of one of the following:~~

9 (A) *The EMT-I or EMT-II employer, after conducting an*
10 *investigation, failed to impose discipline for the conduct under*
11 *investigation, or the medical director makes a determination that*
12 *the discipline imposed was not according to the guidelines for*
13 *disciplinary orders and conditions of probation and the conduct*
14 *of the EMT-I or EMT-II certificate holder constitutes grounds for*
15 *disciplinary action against the certificate.*

16 (B) *Either the employer of an EMT-I or EMT-II further*
17 *determines, after an investigation conducted under paragraph (1),*
18 *or the medical director determines after an investigation conducted*
19 *under paragraph (2), that the conduct requires disciplinary action*
20 *against the certificate.*

21 (4) *The medical director of the local EMS agency, after*
22 *consultation and agreement with the employer of an EMT-I or*
23 *EMT-II, may temporarily suspend, prior to hearing, any EMT-I*
24 *or EMT-II certificate or both EMT-I and EMT-II certificates upon*
25 *a determination that the certificate holder has engaged in acts or*
26 *omissions that constitute grounds for revocation of the EMT-I or*
27 *EMT-II certificate if permitting the certificate holder to continue*
28 *to engage in the EMT-I or EMT-II activities presents an imminent*
29 *threat to the public health or safety.*

30 (b) The authority may deny, suspend, or revoke any EMT-P
31 license issued under this division, or may place any EMT-P license
32 issued under this division, or may place any EMT-P licenseholder
33 on probation upon the finding by the director of the occurrence of
34 any of the actions listed in subdivision (c). Proceedings against
35 any EMT-P license or licenseholder shall be held in accordance
36 with Chapter 5 (commencing with Section 11500) of Part 1 of
37 Division 3 of Title 2 of the Government Code.

38 (c) Any of the following actions shall be considered evidence
39 of a threat to the public health and safety and may result in the
40 denial, suspension, or revocation of a certificate or license issued

1 under this division, or in the placement on probation of a certificate
2 or licenseholder under this division:

3 (1) Fraud in the procurement of any certificate or license under
4 this division.

5 ~~(2) Gross negligence.~~

6 ~~(3) Repeated negligent acts.~~

7 ~~(4) Incompetence.~~

8 ~~(5) The commission of any fraudulent, dishonest, or corrupt act~~
9 ~~which is substantially related to the qualifications, functions, and~~
10 ~~duties of prehospital personnel.~~

11 (2) *Denial of licensure, revocation, suspension, or other*
12 *disciplinary action against an EMT license or certificate by another*
13 *state or territory of the United States, by any other government*
14 *agency, or by another California licensing entity. A certified copy*
15 *of the decision or judgment shall be conclusive evidence of that*
16 *action.*

17 (3) *Impersonating an applicant or acting as proxy for an*
18 *applicant in any examination or continuing education required*
19 *under this division for the issuance of a certificate or license.*

20 (4) *Incompetence or gross negligence in carrying out usual*
21 *certified or licensed EMT functions.*

22 (5) *Making or giving any false statement or information in*
23 *connection with the application for issuance of a certificate or*
24 *license.*

25 (6) Conviction of any crime which is substantially related to
26 the qualifications, functions, and duties of prehospital personnel.
27 The record of conviction or a certified copy of the record shall be
28 conclusive evidence of the conviction.

29 (7) Violating or attempting to violate directly or indirectly, or
30 assisting in or abetting the violation of, or conspiring to violate,
31 any provision of this division or the regulations adopted by the
32 authority pertaining to prehospital personnel.

33 ~~(8) Violating or attempting to violate any federal or state statute~~
34 ~~or regulation which regulates narcotics, dangerous drugs, or~~
35 ~~controlled substances.~~

36 ~~(9) Addiction to the excessive use of, or the misuse of, alcoholic~~
37 ~~beverages, narcotics, dangerous drugs, or controlled substances.~~

38 (8) *Impersonating another certified EMT-I or EMT-II or licensed*
39 *EMT-P.*

1 (9) *Permitting or allowing another person to use his or her*
2 *EMT-I or EMT-II certificate or EMT-P license for the purpose of*
3 *providing emergency medical services.*

4 (10) Functioning outside the supervision of medical control in
5 the field care system operating at the local level, except as
6 authorized by any other license or certification.

7 ~~(11) Demonstration of irrational behavior or occurrence of a~~
8 ~~physical disability to the extent that a reasonable and prudent~~
9 ~~person would have reasonable cause to believe that the ability to~~
10 ~~perform the duties normally expected may be impaired.~~

11 ~~(12)~~
12 (11) Unprofessional conduct exhibited by any of the following:

13 (A) The mistreatment or physical abuse of any patient resulting
14 from force in excess of what a reasonable and prudent person
15 trained and acting in a similar capacity while engaged in the
16 performance of his or her duties would use if confronted with a
17 similar circumstance. Nothing in this section shall be deemed to
18 prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace
19 officer, or a peace officer who is acting in the dual capacity of
20 peace officer and EMT-I, EMT-II, or EMT-P, from using that force
21 that is reasonably necessary to effect a lawful arrest or detention.

22 (B) The failure to maintain confidentiality of patient medical
23 information, except as disclosure is otherwise permitted or required
24 by law in Sections 56 to 56.6, inclusive, of the Civil Code.

25 (C) The commission of any sexually related offense specified
26 under Section 290 of the Penal Code.

27 (D) *Obtaining or possessing in violation of the law, or, except*
28 *as directed by a licensed physician and surgeon, dentist, or*
29 *podiatrist, administering to himself or herself, or furnishing or*
30 *administering to another, any controlled substance as defined in*
31 *Division 10 (commencing with Section 11000) of this code or any*
32 *dangerous drug or dangerous device as defined in Section 4022*
33 *of the Business and Professions Code.*

34 (E) *Use of any controlled substance as defined in Division 10*
35 *(commencing with Section 11000) of this code or any dangerous*
36 *drug or dangerous device as defined in Section 4022 of the*
37 *Business and Professions Code, or alcoholic beverages, to an*
38 *extent or manner dangerous or injurious to himself or herself, any*
39 *other person, or the public, or to the extent that the use impairs*

1 *his or her ability to conduct with safety to the public the practice*
2 *authorized by his or her certification or license.*

3 *(F) Conviction of a criminal offense involving the prescription,*
4 *consumption, or self-administration of any of the substances*
5 *described in subparagraphs (D) and (E), or the possession of, or*
6 *falsification of a prescription record pertaining to, the substances*
7 *described in subparagraph (D), in which event the record of the*
8 *conviction is conclusive evidence thereof.*

9 *(G) Being committed or confined by a court of competent*
10 *jurisdiction for intemperate use of, or addiction to, the use of any*
11 *of the substances described in subparagraphs (D) and (E), in which*
12 *event the court order of commitment or confinement is prima facie*
13 *evidence of that commitment or confinement.*

14 *(H) Falsifying, or making grossly incorrect, grossly inconsistent,*
15 *or unintelligible entries in any hospital, patient, or other record*
16 *pertaining to controlled substances or dangerous drugs or devices.*

17 *(d) The report requirement of this section shall not be construed*
18 *to require or authorize the release of information or records of an*
19 *EMT-I or EMT-II who is also a peace officer described in Section*
20 *3301 of the Government Code or a firefighter described in Section*
21 *3251 of the Government Code or to require or authorize the release*
22 *of records described in Section 832.7 of the Penal Code. The*
23 *information within this report shall be deemed to be an*
24 *investigative communication that is exempt from public disclosure*
25 *as a public record pursuant to subdivision (f) of Section 6254 of*
26 *the Government Code.*

27 *(e) For purposes of this section “disciplinary cause” means an*
28 *act that is substantially related to the qualifications, functions,*
29 *and duties of an EMT-I or EMT-II and is evidence of a threat to*
30 *the public health and safety described in subdivision (c).*

31 *SEC. 9. This act shall not be construed to limit or otherwise*
32 *impair the medical control of the medical director of a local EMS*
33 *agency granted pursuant to Section 1798 of the Health and Safety*
34 *Code.*

35 *SEC. 10. No reimbursement is required by this act pursuant*
36 *to Section 6 of Article XIII B of the California Constitution because*
37 *the only costs that may be incurred by a local agency or school*
38 *district will be incurred because this act creates a new crime or*
39 *infraction, eliminates a crime or infraction, or changes the penalty*
40 *for a crime or infraction, within the meaning of Section 17556 of*

1 *the Government Code, or changes the definition of a crime within*
2 *the meaning of Section 6 of Article XIII B of the California*
3 *Constitution.*

4 ~~SECTION 1. Section 1798.201 of the Health and Safety Code~~
5 ~~is amended to read:~~

6 ~~1798.201. (a) When information comes to the attention of the~~
7 ~~medical director of the local EMS agency that an EMT-P~~
8 ~~licenseholder has committed any act or omission that appears to~~
9 ~~constitute grounds for disciplinary action under this division, the~~
10 ~~medical director of the local EMS agency shall evaluate the~~
11 ~~information to determine if there is reason to believe that~~
12 ~~disciplinary action may be necessary.~~

13 ~~(b) If the medical director sends a recommendation to the~~
14 ~~authority for further investigation or discipline of the licenseholder,~~
15 ~~the recommendation shall include all documentary evidence~~
16 ~~collected by the medical director in evaluating whether or not to~~
17 ~~make that recommendation. The recommendation and~~
18 ~~accompanying evidence shall be deemed in the nature of an~~
19 ~~investigative communication and be protected by Section 6254 of~~
20 ~~the Government Code. In deciding what level of disciplinary action~~
21 ~~is appropriate in the case, the authority shall consult with the~~
22 ~~medical director of the local EMS agency.~~

23 ~~SEC. 2. If the Commission on State Mandates determines that~~
24 ~~this act contains costs mandated by the state, reimbursement to~~
25 ~~local agencies and school districts for those costs shall be made~~
26 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
27 ~~4 of Title 2 of the Government Code.~~